IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETN. NO.507 OF 2005

Prashant Gajanan Koli ... Petitioner

versus

The State of Maharashtra & anr. ... Respondents

...

Mr.Aslam S. Shaikh, for the Petitioner.

Mr.K.V. Saste, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

4th March 2005

P.C.:

. Heard Counsel for the parties. Perused the record. Rule. Rule made returnable forthwith by consent. Mr. Saste, A.P.P., waives notice for the Respondents. As short question is involved, petition is taken up for final disposal forthwith by consent.

. This petition takes exception to the

order passed by the Deputy Inspector-General of Prisons, Western Zone, dated 10th January 2005 rejecting the Petitioner's request for release on furlough leave. The sole reason recorded in the order is that the surety will not be able to regulate the movements of the Petitioner if released. This was the only adverse report submitted by the police, which is the basis to reach the subjective satisfaction by the appropriate authority.

. In the first place, the reason is wholly ill-advised. The requirement of surety presupposes that the person will be bound by the activities of the prisoner for whom he has offered surety. If the prisoner was to jump condition of furlough, the surety would be responsible for all purposes in terms of the bond executed by him. If that is the requirement, I see no basis as to what pursuaded the competent authority to accept the adverse report of the concerned police officer to reject the prayer for furlough leave, as made by the Petitioner.

. In any case, to get over the apprehension

as expressed in the adverse report against the Petitioner, the Petitioner has produced affidavit sworn on 16th February 2005 of the surety who has reiterated therein that he is ready and willing to stand as surety for the prisoner (Petitioner) and will be able to watch his activities if he was to be released on furlough.

. Taking any view of the matter, the order, which is impugned in this petition, cannot be sustained. The same is set aside. Instead, the appropriate authority is directed to release the Petitioner on furlough leave as per rules on such terms and conditions as may be found appropriate.

. Petition succeeds on the above terms.

(A.M.KHANWILKAR,J.)